

PREPARED STATEMENT OF THE FEDERAL TRADE COMMISSION  
STOPPING COVID-19 FRAUD AND PRICE GOUGING

Before the  
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION  
SUBCOMMITTEE ON CONSUMER PROTECTION, PRODUCT SAFETY, AND DATA  
SECURITY  
UNITED STATES SENATE

WASHINGTON, D.C.

FEBRUARY 1, 2022



pursuant to Section 13(b) of the FTC Act. Amidst this devastating pandemic, restoring the FTC's ability to provide redress to wronged consumers is critical.

## II. COMBATTING COVID- RELATED FRAUD

### a. Detecting COVID

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fraud in 2021, with consumers reporting a total dollar loss of \$5.9 billion and an individual median dollar loss of \$500.

FTC staff monitors and analyzes Sentinel to identify every COVID-related fraud complaint to find potential law enforcement targets and businesses, and to coordinate with federal, state, and local law enforcement partners. These reports have led to numerous law enforcement actions.

#### b. COVID-19 Law Enforcement Actions

Thanks in part to new authority granted by Congress, bad actors face severe consequences for committing COVID-related fraud. Deploying the Commission's new authority under the COVID-19 Consumer Protection Act of 2020 (CCPA) and its other legal authorities, the Commission seeks emergency injunctions, asset freezes, and civil penalties of up to \$46,517 for each violation of the CCPA or other rules enforced by the agency necessary to ensure that the public is protected.

Most recently, the FTC filed a lawsuit under the CCPA alleging that a Utah-based company claimed its nasal sprays provide four-hour protection against coronavirus and are “an effective solution to the pandemic.” A few months prior, we filed the first case under the CCPA against a chiropractor and his company who claimed that vitamin D and zinc supplements were scientifically proven to treat or prevent COVID-19, and that they were equally or more effective than vaccines.<sup>6</sup> We pursued and obtained a stipulated preliminary injunction against these

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<sup>3</sup> In 2020, Sentinel received nearly 2.3 million fraud reports and consumers reported a total dollar loss of \$3.4 billion. <https://public.tableau.com/app/profile/federal.trade.commission/viz/ConsumerSentinel/Infographic>

<sup>4</sup> Pub. L. No. 116-260, 134 Stat. 1182, Division FF, Title XIX, 1401.

<sup>5</sup> Coe(s)7 (l)6.9 (os)v 123.3

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defendants.<sup>7</sup>In addition, the agency is seeking civil penalties under CCPA against an online

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stimulus check and promised to get them federal COVID-19 stimulus benefits.<sup>12</sup> Rather than assisting consumers to obtain stimulus benefits, the mailers sought to lure consumers to auto sales events. The Commission Order banned the company and its owner from participating in advertising, marketing, promoting, distributing, or selling or leasing motor vehicles for 20 years.<sup>13</sup> Early in the pandemic, the FTC alleged that a company falsely claimed to be an approved lender to induce struggling small businesses to submit applications for the Paycheck Protection Program, administered by the Small Business Administration (SBA).<sup>14</sup> The FTC obtained a court order permanently barring the company from misrepresenting its ability to make or process SBA loans, as well as its affiliation with SBA.<sup>15</sup> In addition, to protect consumers attempting to replace or supplement income during the pandemic, the Commission – along with 19 federal, state, and local partners – led a nationwide crackdown against scams making false promises of income and financial independence.<sup>16</sup> As part of the crackdown, the Commission sued Moda Latina, which allegedly targeted Latina consumers with false earnings claims in Spanish language ads.<sup>17</sup> An order resolving that case bans the defendants from selling or marketing opportunities to work from home and imposes a judgment of over \$7 million.

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blasted out millions of illegal robocalls and adjusted call messaging to capitalize on consumers who were concerned about the health risks of working outside the home during the pandemic. The order resolving the case bans defendants from robocalling and selling or marketing work-from-home opportunities and imposes a judgment of more than \$2 million.<sup>19</sup> In an ongoing lawsuit against Raging Bull, the FTC has alleged that the defendants fraudulently marketed investment-related services that they claimed would enable people to make consistent profits and beat the market, and claimed that the pandemic was a great time to learn their trading techniques to make profits.<sup>20</sup> Instead, the FTC has alleged, consumers – including retirees, older adults, and immigrants– lost more than \$197 million to this scheme in only the last three years

The Commission will remain vigilant in protecting the public from harms that stem directly and indirectly from the COVID-19 pandemic. The FTC is committed to tackling emerging threats, adjusting our strategies wherever necessary, and working in close coordination with our law enforcement partners at the local, state, and federal level

### c. COVID- 19 Consumer Education and Outreach

The Commission has continued to buttress its law enforcement actions, consumer and business education. Aided by the American Rescue Plan funds, the FTC has increased its outreach to ethnic and immigrant communities, which have been targeted by COVID-19 scams. The FTC has actively engaged with ethnic and community media journalists nationwide to learn about issues affecting these communities. In this month, the agency will place multilingual

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<sup>18</sup> Complaint, *FTC v. National Web Design, LLC*, Case No. 2:20-cv-00846 (D. Utah), available at [https://www.ftc.gov/system/files/documents/cases/random\\_morris\\_complaint.pdf](https://www.ftc.gov/system/files/documents/cases/random_morris_complaint.pdf)

<sup>19</sup> Order Granting Stipulated Motion for Permanent Injunction and Monetary Judgment, *National Web Design, LLC*, Case No. 2:20-cv-00846 (D. Utah), available at [https://www.ftc.gov/system/files/documents/cases/36permanent\\_injunction\\_and\\_monetary\\_judgment.pdf](https://www.ftc.gov/system/files/documents/cases/36permanent_injunction_and_monetary_judgment.pdf)

<sup>20</sup> Amended Complaint, *FTC v. RagingBull.com, LLC*, Case No. 1:20-cv-03538GLR (D. Md.), available at [https://www.ftc.gov/system/files/documents/cases/ragingbull.com\\_amended\\_complaint\\_for\\_permanent\\_injunction\\_and\\_other\\_equitable\\_relief.pdf](https://www.ftc.gov/system/files/documents/cases/ragingbull.com_amended_complaint_for_permanent_injunction_and_other_equitable_relief.pdf)









affect children and teens.<sup>30</sup> This study may provide critical information on the business practices at issue.

a. Impersonator Fraud

For years, scammers have falsely claimed that they are calling from the IRS, Social Security Administration, or other offices or businesses to steal data and money from hard working Americans. Consumer financial losses to business imposter scams are substantial, topping \$451 million in 2021 alone.<sup>31</sup> In fact, business imposter reports from consumers more than tripled between 2019 and 2021, and were largely driven by scammers pretending to be an online retailer, like Amazon.<sup>32</sup> Government imposter scams – a perennial category of fraud – have similarly capitalized on the pandemic.<sup>33</sup> Impersonators use all methods of communication to trick their targets into trusting that they are the government or an established business and then trade on this trust to steal their identity or money.

The Commission is considering deploying its rulemaking authority to prohibit these impersonation frauds. In December, the agency launched an advanced notice of proposed rulemaking to combat government and business impersonation fraud.<sup>34</sup> If a rule is ultimately promulgated, it would enable the Commission to seek refunds for consumers under its Section 19

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<sup>30</sup> FTC Press Release, *FTC Issues Orders to Nine Social Media and Video Streaming Services Seeking Data About How They Collect, Use, and Present Information* (Dec. 14, 2020), available at [https://www.ftc.gov/news-](https://www.ftc.gov/news-events/press-)  
[events/press-](https://www.ftc.gov/news-events/press-)

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The Commission has also launched an initiative to use its Penalty Offense Authority to deter unfair and deceptive practices on a nationwide basis and to protect consumers from scams that prey on economic precarity.<sup>38</sup> This past October, the Commission sent Notice of Penalty Offenses<sup>39</sup> to more than 1,100 businesses regarding deceptive or misleading earnings claims and fake reviews and other misleading endorsements,<sup>40</sup> and to 70 for-profit colleges regarding deceptive or misleading job and earning prospects.<sup>41</sup> The goal of putting these industries on notice is to deter wrongful conduct by triggering the possibility of civil penalties.

c. Deceptive Health Claims

Fraud reports about medical treatments more than doubled during the course of the pandemic, and in the last year, those related to COVID increased persistently.<sup>42</sup> Market-wide deterrence is especially important with respect to deceptive health claims, which can lead consumers to turn to bogus cures and forgo legitimate treatments. To achieve this deterrence, the Commission is placing market actors on notice that they can face stiff civil penalties if they cheat consumers with false claims.

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Starting in March 2020, the FTC launched a campaign to challenge companies' deceptive COVID-19 claims— directing the companies to cure violations and pursuing enforcement actions if problematic claims were not quickly removed. To date, the FTC has issued more than 425 cease and desist demands, many in conjunction with the Food and Drug Administration (FDA), to sellers and marketers that claimed that their products could treat or prevent COVID-19. Twenty of those cease and desist demands were directed to multi-level marketing companies (MLMs) regarding deceptive earnings claims and COVID-19 prevention or treatment claims made by the MLM or its business opportunity participants. The agency also issued cease and desist demands with the SBA regarding small business relief and joint demand letters with the Federal Communications Commission (FCC) to Voice Over Internet Protocol service providers and others who may have been “assisting and facilitating” illegal telemarketing calls, including calls making fraudulent offers of COVID-19 home testing kits. These cease and desist demands

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<sup>43</sup> Copies of all of the FTC's COVID-19 related cease and desist demands are available here:

<https://www.ftc.gov/coronavirus/enforcement/warning-letters>

<sup>44</sup> See Press Release, *FTC Sends Warning Letters to Multi-Level Marketers Regarding Health and Earnings Claims They or Their Participants are Making Related to Coronavirus* (Apr. 24, 2020) available at

<https://www.ftc.gov/news-events/press-releases/2020/04/ftc-sends-warning-letters-multi-level-marketers-regarding-health> Press Release, *FTC Sends Second Round of Warning Letters to Multi-Level Marketers Regarding Coronavirus Related Health and Earnings Claims* (June 5, 2020) available at

<https://www.ftc.gov/news-events/press-releases/2020/06/second-round-warning-letters-to-mlms-regarding-coronavirus> Press Release, *With*

*Omicron Variant on the Rise, FTC Orders More Marketers to Stop Falsely Claiming Their Products Can Effectively Prevent or Treat COVID-19* (Jan. 19, 2022) available at <https://www.ftc.gov/news-events/press-releases/2022/01/omicron-variant-rise-ftc-orders-more-marketers-stop-falsely>.

<sup>45</sup> FTC Press Release, *FTC and SBA Warn Operator of SBA.com and Lead Generator Lendio to Stop Potentially Misleading Coronavirus Relief Loan Marketing* (May 18, 2020) available at <https://www.ftc.gov/news-events/press-releases/2020/05/ftc-sba-warn-operator-sbacom-lead-generator-lendio-stop> Press Release, *FTC and*

*SBA Warn Six Companies to Stop Potentially Misleading Marketing Aimed at Small Businesses Seeking Coronavirus Relief Loans* (June 24, 2020) available at <https://www.ftc.gov/news-events/press-releases/2020/06/ftc-sba-warn-six-companies-stop-potentially-misleading-marketing>

<sup>46</sup> FTC Press Release, *FTC and FCC Send Joint Letters to VoIP Service Providers Warning against 'Routing and Transmitting' Illegal Coronavirus-related Robocalls* (Apr. 3, 2020) available at <https://www.ftc.gov/news-events/press-releases/2020/04/ftc-send-joint-letters-voip-service-providers-warning-against> FTC Press Release, *FTC and FCC Send Joint Letters to Additional VoIP Providers Warning against 'Routing and Transmitting' Illegal Coronavirus-related Robocalls* (May 20, 2020) available at <https://www.ftc.gov/news-events/press-releases/2020/05/ftc-send-joint-letters-additional-voip-providers-warning> The FTC also independently sent

letters to nine VoIP service providers in March 2020 regarding illegal calls regarding COVID. FTC Press Release, *FTC Warns Nine VoIP Service Providers and Other Companies against 'Assisting and Facilitating' Illegal*

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